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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

First supplementary reports due in 1992

Addendum

BELARUS*

[15 September 1992]

1. In the period since the submission in 1989 of the initial report of the Republic of Belarus on implementation of the Convention, the legislation in force in the Republic aimed at the prohibition and elimination of torture and other cruel, inhuman or degrading treatment or punishment has undergone a number of changes.

2. An Act of the Republic of Belarus dated 21 June 1991 amending and supplementing certain legislative instruments has made it no longer possible under article 60 of the Republic's Criminal Code to commit to special medico-educational institutions juveniles in respect of whom a court, pursuant to article 10, finds it appropriate not to apply criminal punishment.

3. An Act of the Republic of Belarus dated 23 April 1992 has revised article 85 of the Criminal Code, which earlier established criminal responsibility for violation of the rules concerning currency transactions. The revised article, which establishes responsibility for violation of the

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* For the initial report of Belarus, see CAT/C/5/Add.14; for its consideration, see CAT/C/SR.32 and 33 and Official Records of the General Assembly, forty-fifth session, Supplement No. 44 (A/45/44), paras. 197-217.

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rules concerning transactions involving precious stones and metals, contains lighter penalties than the previous article and does not provide for the death penalty in respect of such offences, even when there are specific aggravating circumstances.

4. Several categories of offences have been decriminalized. This applies, in particular, to malicious violation of the rules concerning administrative supervision (art. 194 of the Criminal Code) and to vagrancy, begging and other parasitic ways of life (art. 204). At the same time, criminal responsibility is established for unlawfully committing a person to a psychiatric hospital (art. 124), for preventing a citizen of the Republic of Belarus, by violence, deception, threats or other means, from freely exercising his right to vote and stand for election and to engage in election campaigning (art. 130) and for violating the law concerning voting of the people (referendum) (art. 131).

5. In view of the increase in racket operations, often accompanied by the use of violence including torture of the victims, article 145 has been revised and now provides heavier criminal penalties for extortion.

6. A new category has been introduced which establishes responsibility for threats against judges or people's assessors, or their close relatives, in connection with the performance of their duties in the administration of justice (art. 172 of the Criminal Code).

7. Changes have been made to article 179, which had already established responsibility for the compelling of a witness or victim to give false testimony or of an expert to give a false opinion.

8. The revised article has increased the penalties for obstructing the appearance of a witness or victim in Court or preventing them from giving testimony, and also for compelling a witness, victim or expert either to refuse to give testimony or an opinion or to give false testimony or opinions.

9. Article 92, paragraphs 1 and 2, of the Code of Criminal Procedure of the Republic of Belarus, concerning maximum periods of detention, as revised by the Act of the Republic of Belarus dated 23 April 1992, provides that detention pending investigation of a case involving a criminal offence may not exceed two months. This period may be extended to three months by the competent procurator if it has not been possible to complete the investigation and there is no reason to alter the restraining measure. A further extension of the period of detention, to up to six months from the date of the arrest, may be authorized by the regional procurator or a procurator of equivalent status only by reason of the particular complexity of the case.

10. An extension of the period of detention beyond six months is permitted in exceptional cases and only in respect of persons charged with grave crimes. The period may be extended in such cases to one year by a deputy Procurator-General of the Republic of Belarus, or to one and half years by the Procurator-General of the Republic of Belarus.

11. To provide additional guarantees of the rights of the suspect or accused, revised article 49 of the Code of Criminal Procedure of the Republic of Belarus stipulates that, in the event of the arrest of a person suspected of having committed an offence or of his detention as a restraining measure prior to presentation of the accusation, defence counsel shall be permitted to

participate in the case from the time that the person is given notice of his arrest or of the order to impose the restraining measure, but no later than 24 hours from the time of the arrest or placement in detention.

12. The list of instances enumerated in article 51 of the Code of Criminal Procedure where the participation of defence counsel is obligatory has been extended. Thus, paragraphs 2 and 3 of this article, as revised by an Act of the Republic of Belarus dated 28 July 1990, make the participation of defence counsel also obligatory during the inquiry proceedings, which was not previously a requirement in the instances provided for in subparagraphs 2, 3 and 4, when the case involves a juvenile, persons who by reason of their physical or mental defects cannot themselves exercise their right to defence or persons who do not have command of the language in which the judicial proceedings are conducted, and in accordance with the procedure provided for by article 49 of the Code of Criminal Procedure of the Republic of Belarus.

13. The person conducting the inquiry, the investigator, procurator or court may furthermore determine that the participation of defence counsel is necessary in other instances, if they consider that the complexity of the case or other circumstances could make it difficult for the suspect, accused or defendant to exercise his right to defence.

14. Decree No. 156 of the Council of Ministers of the Republic of Belarus, dated 24 March 1992, concerning the approval of standards of daily subsistence for persons sentenced to deprivation of liberty and for persons held in isolation cells pending investigation or committed to remedial or rehabilitative labour establishments of the Ministry of Internal Affairs, has revised these standards to provide for their enhancement and alignment with present requirements.

15. The judicial institutions and bodies responsible for the protection of rights in the Republic of Belarus are particularly concerned in their work with questions of the rehabilitation and restoration of the rights of the victims of the illegal political repressions which took place between the 1920s and 1980s.

16. Questions relating to the application of the Convention will be considered during preparation of the legislative acts to be drafted in the course of implementation of judicial and legal reform in the Republic of Belarus.